

# MOTOR FUELS UPDATE

DEPARTMENT OF REVENUE



Volume 8, Edition 2

Quarterly

April 1998

## Proposed Legislation for 1998



The following is a synopsis of three items of legislation being considered by the Legislature. Please note that these pieces of legislation are **proposed only**. At the time of printing, they have not been passed by the Legislature. When and if these items become law, we will notify all affected persons.

### **LB 1190**

This bill was drafted by the Motor Fuels Division and is endorsed by our Industry Advisory Group. Senator Bob Wickersham, Chair of the Revenue Committee,

introduced this legislation for us. If passed, LB 1190 will result in the following changes:

- ✓ ***Motor fuel taxes would become "trust fund" taxes, with the incidence of the tax being imposed upon the ultimate consumer.*** The distributor or wholesaler would continue to collect and remit the tax to the state in the same manner as they presently do; however, they would be acting as an agent of the state in collecting the tax from the consumer. This is the same manner in

which sales taxes have always been collected.

This bill would not make any discernible difference to members of the industry or public, but would have a great impact on our ability to collect fuel taxes from those businesses filing for bankruptcy. Under the trust fund concept, fuel taxes in a bankruptcy would be treated with a much higher priority than general obligations and may not be discharged. Currently, when we are unable to recover taxes through a bankruptcy, we are forced to utilize funds from the Cash Bond

## INSIDE

- ***Rights and Responsibilities***
- ***E-Mail***
- ***Motor Fuels Tax***

## PROPOSED LEGISLATION (CONT.)

Fund. As you know, this fund is created through your contributions. This bill will allow us to reduce our reliance on the Cash Bond Fund by increasing the possibility of collecting delinquent motor fuel taxes through bankruptcy proceedings.

- ✓ ***Eliminate the requirement for special language on an invoice for dyed diesel.*** When this requirement was adopted, it mirrored federal regulations, but the IRS has since eliminated this requirement. The pump disbursing the dyed fuel would still be required to be clearly labeled.
- ✓ ***Require electronic filing of returns by all suppliers and terminal operators, beginning January 1, 1999.*** Electronic filing would continue to be optional for all other filers.
- ✓ ***Restructure the penalty for use of dyed diesel in a licensed motor vehicle.*** Currently the

penalty for using dyed diesel in a licensed motor vehicle is \$1,000 per occurrence. This legislation would tier the penalty so that the first violation would result in a \$250 penalty; the second violation within a five-year period would result in a \$500 penalty; while any further violations within a five-year period would result in penalties of \$1,000 per violation. This legislation also confirms that the registered owner of the motor vehicle is the responsible party.

- ✓ ***Eliminate monthly reports for retailers.*** Beginning July 1, 1998, retailers would no longer be required to file monthly reports. They would continue to be licensed by this division and the three-year records retention requirement would not change; however, they would no longer be required to file Nebraska Motor Fuels Retailer Reports, Forms 89.
- ✓ ***Set the motor fuels tax semiannually.*** While the tax rate would continue to be set annually by the State

Tax Board, the resulting tax would be calculated on a semiannual basis, rather than quarterly. The tax would be calculated and set for the period of July 1 through December 31; and January 1 through June 30.

### ***Other Legislation***

Senator Cudaback introduced LB 955 that would create a separate program for liquefied petroleum gas and set a tax rate that is approximately 73 percent of the fuel tax. At this time, it does not appear this legislation will pass.

LB 1161 makes a number of changes in the Petroleum Release Remedial Action Fee Program. While most changes affect the Department of Environmental Quality's use of the funds collected, the part affecting our division is that the fee would increase to \$.009 per gallon for motor vehicle fuel and \$.003 per gallon for all other petroleum products. The current rates are \$.006 and \$.002 per gallon, respectively.

## **Rights and Responsibilities for Reporting and Remitting Nebraska Motor Fuel Tax or Information**

The Motor Fuels Division strives to assist taxpayers in fulfilling their statutory duties in the reporting and remittance of Nebraska fuel tax. The cooperation of each taxpayer is critical to achieve voluntary compliance. The following summarizes both your responsibilities and your rights regarding late filing or payment penalties under Nebraska law.

### **Responsibility:**

Every taxpayer is responsible for submitting the tax return or report by the statutory due date. If the tax return, report, or payment is postmarked one to 10 days late, a statutory penalty of \$50 is imposed. If the return, report, or payment is more than 10 days late, an additional penalty of \$100 or 10 percent of the tax due is imposed, whichever is greater.

### **Your Right:**

If you incur a penalty and you are able to show that the penalty was not the result of your negligence or intentional disregard of the laws, you have the right to ask for an abatement of that penalty. No action will be taken on your request for abatement of the penalty until the corresponding tax and interest have been paid.

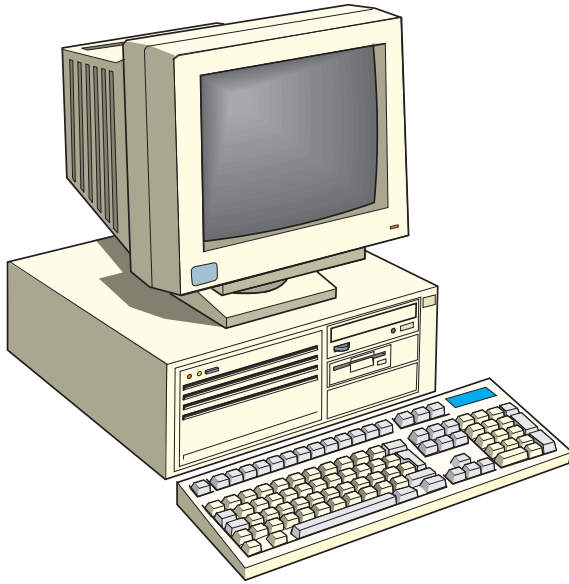
## ***Thank you, Donna!***

*On January 20, 1998, Donna J. Medinger died after a brief battle with cancer. A twenty-five year department employee, Donna was our Lincoln Audit Supervisor and had been a part of our division since its inception.*

*Motor Fuels Division lost a valued employee. We lost a friend.*

## E-MAIL

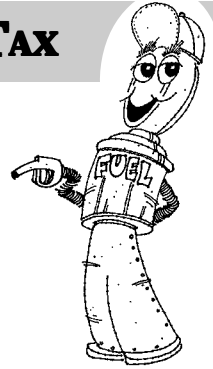
The Motor Fuels Division has received some requests asking that communications currently conducted by phone be conducted in the future by E-Mail.



If you would prefer E-Mail communications, please contact your account representative. You can exchange E-Mail addresses and proceed to communicate electronically.

## MOTOR FUELS TAX

The Nebraska motor fuels tax for **1998 second quarter** (April 1 through June 30, 1998) is **22.8 cents** per gallon.



## FOR MOTOR FUELS TAXPAYER ASSISTANCE

Call your account representative or toll free 1-800-554-FUEL (1-800-554-3835).

Lincoln residents call 471-5730.

For \*TT (Text Telephone), dial 1-800-382-9309.



\*Telecommunication Device for the Deaf (TDD) is designated by the use of "TT," which is consistent with the Americans with Disabilities Act.

## OR CONTACT:

**Motor Fuels Division**  
**301 Centennial Mall South**  
**P.O. Box 98904**  
**Lincoln, NE 68509-8904**

*If you have received a duplicate mailing or would like to subscribe, please call 1-800-554-3835*

Published Quarterly by the  
Motor Fuels Division  
P.O. Box 98904  
Lincoln, NE 68509-8904



P.O. Box 98904  
Lincoln, Nebraska 68509-8904

Bulk Rate  
U.S. POSTAGE  
PAID  
Lincoln, Nebraska  
Permit No. 212

***Subscriptions are free***

**State Tax Commissioner**  
*M. Berri Balka*  
**Motor Fuels Division Administrator**  
*Janet Stege*